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JUL 31 2008

In re Application of	:	
Tauber et al.	:	
Application No. 10/801169	:	DECISION
Filing or 371(c) Date: 03/12/2004	:	ON PETITION
Patent No.: 7306855	:	
Issue Date: 12/11/2007	:	
Attorney Docket Number:	:	
CECOM 5520	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed January 28, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **dismissed**.

A review of the assignment recorded at reel 015080; Frame 0252 reveals that the assignment, recorded in application 09/845,108, is of application serial number 08/333,669, filed November 3, 1994. The present application is a division ("DIV") of application 09/845,108, which is a continuation-in-part ("CIP") of 09/337,724, which is a CIP of 08/717,822, which is a CIP of 08/333,669.

The MPEP 306, Assignment of Division, Continuation, Substitute, and Continuation-in-Part in Relation to Parent Application, states in relevant part:

In the case of a substitute or continuation-in-part application, a prior assignment of the original application is not applied (effective) to the substitute or continuation-in-part application because the assignment recorded against the original application gives the assignee rights to only the subject matter common to both applications. Substitute or continuation-in-part applications require the recordation of a new assignment if they are to be issued to an assignee. See 37 CFR 3.81.

A review of the present petition reveals that the assignment relied upon to establish the assignee of record in the present application is not effective because the present application is a DIV of application 09/845,108; however, the assignment recorded in 09/845,108 is not effective because 09/845,108 is a CIP of a CIP of a CIP of the application assigned in the recorded assignment at reel 015080; Frame 0252. A new assignment must have been recorded.

37 CFR 3.81, Issue of patent to assignee, states:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter.

In this instance, Petitioner has failed to demonstrate that a new assignment was submitted for recordation in the present application before issuance of the patent<sup>1</sup>.

Petitioner is also advised that a review of the assignment recorded at reel 015080; Frame 0252 reveals that while the assignment lists as the assignors, inventors Author Tauber, Robert Finnegan, William Wilbur, Steven Tidrow, Donald Eckart and William Drach, it is executed by inventors Finnegan, Wilbur and Tidrow only.

Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/  
Derek L. Woods  
Attorney  
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<sup>1</sup> A new assignment recorded in the parent application would have been sufficient because this application is a DIV of the parent application.